

Margaret M. Broussard (SBN 219251)
7909 Walerga Road,
Suite 112, PMB 1157
Antelope, CA 95843
tel (916) 722-2370
fax (916) 722-2801

Attorney for T.M..

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

SAN RAFAEL CITY SCHOOLS
Plaintiff,

CASE NO.C07-04702WHA

v.

**ANSWER OF REAL PARTY IN
INTEREST T.M.**

OFFICE OF ADMINISTRATIVE
HEARINGS

Defendant, and

T.M., a minor,
Real Party in Interest.

Real Party in Interest, T.M. ("T.M."), pursuant to Rules 8 and 12 of the Federal Rules of Civil Procedure, and Civil Local Rule 16-5, in answer to the Complaint ("Complaint") of Plaintiff SAN RAFAEL CITY SCHOOLS ("District"), hereby admits, denies, and alleges as follows:

INTRODUCTION

1. In answer to paragraph 1 of the complaint, T.M. admits the allegations therein, with the exception that T.M. affirmatively alleges that an order clarifying the decision was rendered on September 14, 2007.
2. In answer to paragraph 2, T.M. denies the allegations.
3. In answer to paragraph 3, T.M. denies the allegations.
4. In answer to paragraph 4, T.M. denies the allegations.
5. In answer to paragraph 5, T.M. denies the allegations except to the extent that the District has filed the action.

JURISDICTION AND VENUE

6. In answer to paragraph 6, T.M. admits the allegations.

7. In answer to paragraph 7, T.M. admits the allegations.

8. In answer to paragraph 8, T.M. admits the allegations.

PARTIES

9. In answer to paragraph 9, T.M. admits the allegations.

10. In answer to paragraph 10, T.M. admits the allegations.

11. In answer to paragraph 11, T.M. admits the allegations.

12. In answer to paragraph 12, T.M. admits the allegations with the exception that T.M. affirmatively alleges that an order clarifying the decision was rendered on September 14, 2007.

13. In answer to paragraph 13, T.M. denies the allegations.

FACTUAL BACKGROUND

14. In answer to paragraph 14, T.M. admits the allegations to the extent that this is an appeal of an administrative decision and denies the rest of the allegations.

15. In answer to paragraph 15, T.M. admits that the allegations.

Kindergarten Year

16. In answer to paragraph 16, T.M. admits the allegations to the extent that they are only a part of the school program offered and services rendered.

17. In answer to paragraph 17, T.M. admits the allegations to the extent that T.M. was passed from kindergarten to first grade but denies the rest of the allegations.

First Grade Year 2005-2006

18. In answer to paragraph 18, T.M. admits the allegations.

19. In answer to paragraph 19, T.M. admits the allegations to the extent that he was in the general education classroom with Mrs. Volkober and denies the rest of the allegations.

20. In answer to paragraph 20, T.M. denies the allegations.

21. In answer to paragraph 21, T.M. admits the allegations to the extent that Mrs. Volkober did provide accommodations and small group instruction and denies the rest of the allegations.

22. In answer to paragraph 22, T.M. admits the allegations to the extent that Mrs. Volkober

notes difficulties and the referral to the SST team. T.M. denies the rest of the allegations.

23. In answer to paragraph 23, T.M. denies the allegations except to the extent that speech and language services were offered and twice weekly RSP services were offered.

24. In answer to paragraph 24, T.M. Student admits the allegations.

25. In answer to paragraph 25, T.M. denies the allegations.

26. In answer to paragraph 26, T.M. admits the allegations except to the extent that the IEP goals responded to the student's mother's concerns.

27. In answer to paragraph 27, T.M. denies the allegations.

28. In answer to paragraph 28, T.M. admits the allegations.

Second Grade Year 2005-2006

29. In answer to paragraph 29, T.M. admits the allegations.

30. In answer to paragraph 30, T.M. denies the allegations.

31. In answer to paragraph 31, T.M. denies the allegations except to the extent that accommodations were provided.

32. In answer to paragraph 32, T.M. admits the allegations with the exception of the agreement with the services.

33. In answer to paragraph 33, T.M. denies the allegations.

34. In answer to paragraph 34, T.M. admits the allegations.

Third Grade Year 2006-2007

35. In answer to paragraph 35, T.M. denies the allegations.

36. In answer to paragraph 36, T.M. denies the allegations except to the extent that he was enrolled at STAR Academy and the cessation of attendance at Sun Valley School.

37. In answer to paragraph 37, T.M. denies the allegations.

38. In answer to paragraph 38, T.M. denies the allegations.

The Due Process Hearing and OAH Decision

39. In answer to paragraph 39, T.M. admits the allegations.

40. In answer to paragraph 40, T.M. admits the allegations in part but denies them to the extent that they are not comprehensive.

41. In answer to paragraph 41, T.M. admits the allegations but denies them to the extent that

1 they are not comprehensive.

2 42. In answer to paragraph 42, T.M. admits the allegations but denies them to the extent that
3 the order was clarified on September 14, 2007.

4 43. In answer to paragraph 43, T.M. denies the allegations.

5 **FIRST CAUSE OF ACTION**

6 44. In answer to paragraph 44, T.M. incorporates by reference its responses to paragraphs 1-
7 43, inclusive, of the Complaint, as set forth above.

8 45. In answer to paragraph 45, T.M. denies the allegations except to the extent that the cited
9 provisions of the IDEA speak for themselves.

10 46. In answer to paragraph 46, T.M. denies the allegations except to the extent that the cited
11 provisions of the IDEA speak for themselves.

12 47. In answer to paragraph 47, T.M. denies the allegations except to the extent that the cited
13 provisions of the IDEA speak for themselves.

14 48. In answer to paragraph 48, T.M. denies the allegations.

15 61. In answer to paragraph 61, which appears out of order, T.M. denies the allegations.

16 **SECOND CAUSE OF ACTION**

17 49. In answer to paragraph 49, T.M. incorporates by reference its responses to paragraphs 1-
18 49, inclusive, of the Complaint, as set forth above. T.M. affirmatively alleges that the
19 complaint cites paragraph numbers which are incorrect.

20 50. In answer to paragraph 50, T.M. denies the allegations.

21 51. In answer to paragraph 51, T.M. denies the allegations.

22 52. In answer to paragraph 52, T.M. denies the allegations.

23 **PRAYER FOR RELIEF**

24 53. In answer to paragraph 53, T.M. denies the allegations.

25
26 **AFFIRMATIVE DEFENSES**

27 54. T.M. alleges that Plaintiff's complaint fails to state a claim upon which relief can be
28 granted.

PRAYER

WHEREFORE, T.M. prays for relief as follows:

1. That the Plaintiff take nothing by way of his complaint;
2. That Plaintiff's complaint be dismissed with prejudice;
3. That T.M. recover its attorney fees and expenses incurred herein and in the underlying case;
4. For costs of suit incurred herein;
5. For post-judgement interest on the reimbursements ordered in the underlying administrative decision and the order clarifying decision;
5. For such other and further relief as the Court deems just and proper.

Respectfully submitted,

MARGARET M. BROUSSARD

Attorney for Real Party in Interest, T.M.

Dated : November 26, 2007

By:/s/ _____

Margaret M. Broussard